

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-3-E - ORDER NO. 2011-715

SEPTEMBER 30, 2011

IN RE: Annual Review of Base Rates for Fuel Costs of Duke Energy Carolinas, LLC) ORDER APPROVING) BASE RATES FOR FUEL) COSTS AND ADOPTING) SETTLEMENT) AGREEMENT
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I. BACKGROUND

This matter comes before the Public Service Commission of South Carolina ("Commission") on the annual review of base rates for fuel costs of Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company"). The procedure followed by the Commission is set forth in S.C. Code Ann. § 58-27-865 (Supp. 2010), which provides for annual hearings to allow the Commission and all interested parties to review the prudence of the fuel purchasing practices and policies of an electrical utility and for the Commission to determine if any adjustment in a utility's fuel cost recovery mechanism is necessary and reasonable.

The parties before the Commission in this docket are Duke Energy Carolinas, the South Carolina Office of Regulatory Staff ("ORS"), and the South Carolina Energy Users Committee ("SCEUC") (collectively, referred to as the "Parties" or sometimes individually as a "Party"). Prior to the hearing, the Parties caused an eleven (11) page Settlement Agreement, dated August 17, 2011 (the "Settlement Agreement"), to be filed

with the Commission. This Agreement was amended at the hearing by agreement of the Parties. The original Settlement Agreement made reference to unredacted confidential pre-filed direct testimony of Company witness Sharon S. Babcock. No such testimony was pre-filed. Accordingly, the reference to this testimony in the Settlement Agreement was stricken. The Settlement Agreement is attached hereto as Exhibit 1, as amended, and is incorporated in and made part of this Order.

II. JURISDICTION OF THE COMMISSION

In accordance with S.C. Code Ann. § 58-27-140(1) (Supp. 2010), the Commission may, upon petition, “ascertain and fix just and reasonable standards, classifications, regulations, practices or service to be furnished, imposed, observed, and followed by any or all electrical utilities.” Further, S.C. Code Ann. § 58-27-865(B) (Supp. 2010) states, in pertinent part, that “[u]pon conducting public hearings in accordance with law, the [C]ommission shall direct each company to place in effect in its base rate an amount designed to recover, during the succeeding twelve months, the fuel costs determined by the [C]ommission to be appropriate for that period, adjusted for the over-recovery or under-recovery from the preceding twelve-month period.”

Consistent with the requirements of S.C. Code Ann. § 58-27-865(B) (Supp. 2010), the Commission convened an evidentiary hearing to determine the reasonableness of the Parties’ settlement and whether acceptance of the settlement is just, fair, and in the public interest.

III. DISCUSSION OF THE HEARING AND THE SETTLEMENT AGREEMENT

The public evidentiary hearing in this matter was held on August 25, 2011, before this Commission with the Honorable John E. Howard presiding as Chairman. Representing the Parties were Brian L. Franklin, Esquire and Bonnie D. Shealy, Esquire, for the Company; Scott Elliott, Esquire, for SCEUC; and Shannon Bowyer Hudson, Esquire, for ORS. At the hearing, the Parties presented the Settlement Agreement, which was admitted into the record as Hearing Exhibit 1, as amended. In the Settlement Agreement, the Parties represented to the Commission that they had discussed the issues presented in this case and determined that each Party's interests and the public interest would be best served by settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement.

Further, the Parties presented witnesses in support of the Settlement Agreement and various other matters related to the Company's base rates for fuel costs. Duke Energy Carolinas' witnesses Sharon S. Babcock, John W. Pitesa, David C. Culp, John J. Roebel, and Marion Elliott Batson presented direct testimony on behalf of the Company via two panels. Mr. Pitesa, Mr. Roebel, and Mr. Culp testified on the first panel. Mr. Batson and Ms. Babcock testified on the second panel. The pre-filed testimony of all Company witnesses was accepted into the record without objection, and the Company testimony exhibits were marked as composite Hearing Exhibits 4 through 8 and entered into the record of the case.¹

¹ Composite Hearing Exhibit 4 consists of the Direct Testimony Exhibits 1 and 2 of John W. Pitesa; Hearing Exhibit 5 consists of the Direct Testimony Exhibit 3 of John W. Pitesa under seal; Composite

Company witness John W. Pitesa discussed the performance of Duke Energy Carolinas' nuclear generation fleet during the review period.² He reported to the Commission that Duke Energy Carolinas achieved a net nuclear capacity factor, excluding reasonable outage time, of 102.84% for the current period, which is above the 92.5% set forth in S.C. Code Ann. § 58-27-865 (Supp. 2010).

Company witness David C. Culp provided further information regarding the Company's nuclear fuel purchasing practices and costs for the review period and described changes expected in the 2011-2012 forecast period.

Company witness John J. Roebel discussed the performance of the Company's fossil-fueled and hydroelectric generating facilities during the period of June 1, 2010, through May 31, 2011, and their operating efficiency during the review period. Mr. Roebel testified that Duke Energy Carolinas' generating system operated efficiently and reliably during the review period.³

Company witness Marion Elliott Batson testified regarding Duke Energy Carolinas' fossil fuel purchasing practices and costs for the period of June 2010 through May 2011 and described related changes forthcoming in the projected period.

Company witness Sharon S. Babcock testified regarding the Company's procedures and accounting for fuel, actual fuel costs, and actual environmental costs

Hearing Exhibit 6 consists of the Direct Testimony Exhibits of David C. Culp (Exhibits 1-2); Composite Hearing Exhibit 7 consists of the Direct Testimony Exhibits of Sharon S. Babcock (Exhibits 1-9); Composite Hearing Exhibit 8 consists of the Direct Testimony Exhibits of Marion Elliott Batson (Exhibits 1-2).

² On August 3, 2011, in Order No. 2011-558 and pursuant to the Company's request at the hearing, the Commission granted the Motion of Duke Energy Carolinas to treat specific material filed in the present proceeding as confidential. Specifically, the Commission Ordered that certain materials contained in Duke Energy Carolinas' witness John W. Pitesa's Testimony and Exhibit 3 should be treated as confidential.

³ Mr. Roebel provided a late-filed exhibit, Hearing Exhibit 9, providing an update on dam remediation and costs.

incurred for the period June 1, 2010, through May 31, 2011, the associated over/under-recovery of such costs, and the Company's computations of projected fuel and environmental costs.⁴ Lastly, she testified to the net estimated under-recovery as of September 30, 2011. Ms. Babcock explained that in compliance with S.C. Code Ann. § 58-27-865 (A)(1) (Supp. 2010), the Company calculated an environmental component for the Residential, General Service/Lighting, and Industrial customer classes. The over/under recovery of environmental costs are allocated among the three customer classes based upon firm peak demand. The resulting allocated costs are converted to the environmental component for each class expressed in cents per kWh and added to the fuel component. Next, Ms. Babcock proposed combined fuel factors of 2.5906 ¢/kWh for Residential customers, 2.5743 ¢/kWh for General Service/Lighting customers, and 2.5513 ¢/kWh for Industrial customers. In proposing these combined fuel factors, Ms. Babcock testified that such factors should result in the Company being neither under nor over-recovered in its fuel costs, including environmental costs, at the end of the billing period in September 2012.

Lastly, Jane L. McManeus testified on behalf of the Company regarding the procedure by which fuel savings would be allocated between Duke Energy Carolinas and Progress Energy Carolinas, Inc. as a result of the proposed Joint Dispatch Agreement associated with the Company's proposed merger with Progress Energy Carolinas, Inc.

Following the Company witnesses, ORS presented the direct testimony of Mr. A. Randy Watts and Mr. Robert A. Lawyer also via panel. Mr. Watts sponsored composite

⁴ Ms. Babcock provided a late-filed exhibit, Hearing Exhibit 10, regarding aerial survey information related to coal and limestone inventory adjustments.

Hearing Exhibit 2 and Mr. Lawyer sponsored composite Hearing Exhibit 3.⁵ Specifically, Mr. Lawyer testified about the examination carried out by ORS as well as the agreed upon accounting adjustments reflected in the Settlement Agreement. With regard to the true-up of over/under-recovered fuel costs, he testified that ORS analyzed the cumulative under-recovery of the Base Fuel Costs that Duke Energy Carolinas had incurred for the period June 2010 through May 2011 totaling (\$528,767). On behalf of ORS, Mr. Lawyer then added the projected under-recovery for the months of June through September 2011 to arrive at an estimated projected cumulative under-recovery balance of (\$28,468,416) as of September 2011. Duke Energy Carolinas' cumulative under-recovery, per its testimony in this docket, as of May 2011 totals (\$1,857,000), and as of September 2011, the cumulative under-recovery totals (\$29,796,000). The Settlement Agreement stated that the difference between Duke Energy Carolinas' and ORS's cumulative under-recovery as of actual May 2011 totaled \$1,328,233. The difference between Duke Energy Carolinas' and ORS's estimated cumulative under-recovery as of September 2011 totals \$1,327,584. In the Settlement Agreement the Parties agreed to stipulate to ORS's calculations and adjustments in this matter.

On behalf of ORS, Mr. Lawyer then analyzed the cumulative over-recovery of the environmental costs that Duke Energy Carolinas had incurred for the period June 2010 through May 2011 totaling \$3,595,468. Mr. Lawyer explained that ORS added the Company's estimated projected under-recovery of (\$111,926) for the month of June 2011, the estimated projected under-recovery of (\$204,129) for the month of July 2011,

⁵ Composite Hearing Exhibit 2 consists of the Direct Testimony and Exhibits of A. Randy Watts (Exhibits 1-11); and Composite Hearing Exhibit 3 the Direct Testimony and Exhibits of Robert A. Lawyer (Exhibits 1-7).

the estimated projected under-recovery of (\$203,889) for the month of August 2011, and the estimated projected under-recovery of (\$61,499) for the month of September 2011, to arrive at an estimated cumulative over-recovery of \$3,014,025 as of September 2011. Duke Energy Carolinas' cumulative over-recovery for environmental costs, per its testimony in this docket, as of May 2011 totals \$3,597,000 and as of September 2011, the cumulative over-recovery totals \$3,016,000. The difference between Duke Energy Carolinas' and the ORS's cumulative over-recovery, as of actual May 2011, totals \$1,532. The difference between Duke Energy Carolinas' and ORS's estimated cumulative over-recovery, as of September 2011, totals \$1,975. In the Settlement Agreement, the Parties agreed to stipulate to ORS's calculations and adjustments in this matter.

Mr. Randy Watts presented direct testimony for ORS and sponsored composite Hearing Exhibit 2.⁶ Mr. Watts testified as to ORS's examination of the Company's fuel expenses and plant operations. The pre-filed testimony of both Mr. Watts and Mr. Lawyer were accepted into the record without objection, and the exhibits attached to each witness' pre-filed testimony were also marked as the composite hearing exhibits identified above and entered into the record of the case.

In summary, through the testimony and exhibits presented to the Commission in this proceeding, the Parties represent that settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement is just,

⁶ See Footnote 3.

fair, and reasonable, and in the public interest. The terms of the Settlement Agreement are summarized as follows:

- (a) The Parties agree to accept all accounting adjustments as set forth in ORS witness Robert A. Lawyer's pre-filed direct testimony, and acknowledge that the over-collected amount of \$1,255,000 related to the Coal Inventory Rider is reflected in Babcock Exhibit 6.
- (b) The Parties agree that the fuel factors contained in Paragraph 7 of the Settlement Agreement represent the appropriate fuel costs, environmental costs, and combined projected fuel factors for Duke Energy Carolinas to charge for the period beginning with the first billing cycle in October 2011 through the last billing cycle of September 2012 by customer class as set forth in the following table:

Class of Service	SC Base Fuel	SC Environmental	SC Combined
	Factor (¢/kWh)	Factor (¢/kWh)	Fuel Factor (¢/kWh)
Residential	2.5273	0.0629	2.5902
General/Lighting	2.5273	0.0466	2.5739
Industrial	2.5273	0.0236	2.5509

- (c) The Parties agree that the fuel factors set forth in Paragraph 7 of the Settlement Agreement were calculated consistent with S.C.

Code Ann. § 58-27-865 (Supp. 2010). The Parties agree that any and all challenges to Duke Energy Carolinas' historical fuel costs and revenues for the period ending May 2011 are not subject to further review; however, outages not complete as of May 31, 2011, and outages where final reports (Company, contractor or government reports or otherwise) are not available may be subject to further review in the review period the outage is complete or when the report(s) become available. Further, that fuel costs for periods beginning on June 1, 2011, and thereafter shall be open issues for determination by the Commission in future fuel cost proceedings and will continue to be trued-up against actual costs in such proceedings held under the procedure and criteria established in S.C. Code Ann. § 58-27-865 (Supp. 2010).

- (d) The parties agree that the following two matters with respect to reagent costs are subject to true-up in the Duke Energy Carolinas 2012 fuel hearing: (1) booked versus actual costs and (2) booked sales and use tax versus actual sales and use tax.
- (e) The Parties agree that to keep the Parties and Duke Energy Carolinas' customers informed of the over/under-recovery balances related to fuel costs and of Duke Energy Carolinas' commercially reasonable efforts to forecast the expected fuel factors to be set at its next annual fuel proceeding, the Company

will provide SCEUC, ORS, and where applicable, its customers with: (i) copies of the monthly fuel recovery reports currently filed with the Commission and ORS; and (ii) forecasts, in the 4th quarter of the calendar year prior to the next annual fuel proceeding and in the 2nd quarter of the calendar year of the Company's next annual fuel proceeding, of the expected fuel factors to be set at its next annual fuel proceeding based upon Duke Energy Carolinas' historical over/under recovery to date and Duke Energy Carolinas' forecast of prices for uranium, natural gas, coal, oil, and other fuel required for generation of electricity.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having heard the testimony of the witnesses and representations of counsel and after careful review of the Settlement Agreement, the Commission finds that approval of the terms set out in the Settlement Agreement is consistent with the standards for fuel review proceedings conducted pursuant to S.C. Code Ann. § 58-27-865 (Supp. 2010) and is supported by the substantial evidence in the record. The Settlement Agreement's terms allow recovery in a precise and prompt manner while assuring public confidence and minimizing abrupt changes in charges to customers. As such, approval of the Settlement Agreement is in the public interest as a reasonable resolution of the issues in this case. Additionally, we find that the methodology for determining the environmental cost component of the fuel factors used by Duke Energy Carolinas in this proceeding, while not binding in future proceedings, is consistent with the statutory requirements of S.C.

Code Ann. § 58-27-865 (Supp. 2010) and is just and reasonable. We further find that the Settlement Agreement's terms provide stabilization to the fuel factors, minimize fluctuations for the near future, and do not appear to inhibit economic development in South Carolina. Additionally, the Commission finds and concludes that the Settlement Agreement affords the Parties with the opportunity to review costs and operational data in succeeding fuel review proceedings conducted pursuant to S.C. Code Ann. § 58-27-865 (Supp. 2010).

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement, as amended, attached hereto as Exhibit 1, and the pre-filed direct testimony of ORS witnesses A. Randy Watts and Robert A. Lawyer, and Duke Energy Carolinas' witnesses Sharon S. Babcock, John W. Pitesa, David C. Culp, John J. Roebel, and Marion Elliott Batson, along with their respective exhibits entered into evidence as composite Hearing Exhibits 2-8, are accepted into the record in the above-captioned case without objection. Late-filed Exhibits 9 and 10 are also accepted into the record in the above-captioned case without objection. Lastly, the oral testimony of the above witnesses presented at the hearing on August 25, 2011, is also incorporated into the record of this case.

2. The Settlement Agreement, as amended, is incorporated into this present Order by reference and attachment and is found to be a reasonable resolution of the issues in this case and to be in the public interest.

3. The fuel purchasing practices, plant operations, and fuel inventory management of Duke Energy Carolinas are reasonable and prudent.

4. Duke Energy Carolinas shall set its fuel factor (excluding environmental costs) at 2.5273 cents per kWh effective for bills rendered on and after the first billing cycle of October 2011 and continuing through the last billing cycle of September 2012.

5. Duke Energy Carolinas shall set its environmental cost component factor at 0.0629 cents per kWh for the Residential customer class, 0.0466 cents per kWh for the General Service/Lighting customer class, and 0.0236 cents per kWh for the Industrial customer class for bills rendered on or after the first billing cycle of October 2011 and continuing through the last billing cycle of September 2012.

6. The Parties shall abide by all terms of the Settlement Agreement.

7. Duke Energy Carolinas shall file an original of the South Carolina retail Adjustment for Fuel Cost and all other retail tariffs within ten (10) days of receipt of this Order with the Commission and ORS.

8. Duke Energy Carolinas shall comply with the notice requirements set forth in S.C. Code Ann. § 58-27-865 (Supp. 2010).

9. Duke Energy Carolinas shall continue to file the monthly reports as previously required.

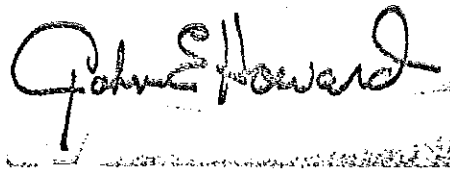
10. Duke Energy Carolinas shall account monthly to the Commission and ORS for the differences between the recovery of fuel costs through base rates and the actual fuel costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit. ORS shall review the cumulative recovery account.

11. Duke Energy Carolinas shall submit monthly reports to the Commission and ORS of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

12. Duke Energy Carolinas shall inform the Parties in the 4th quarter of the calendar year prior to the next annual fuel proceeding and in the 2nd quarter of the calendar year of the Company's next annual fuel proceeding, of the expected fuel factor to be set at its next annual fuel proceeding based upon Duke Energy Carolinas' historical over/under recovery to date and Duke Energy Carolinas' forecast of prices for uranium, natural gas, coal, oil, and other fuel required for generation of electricity.

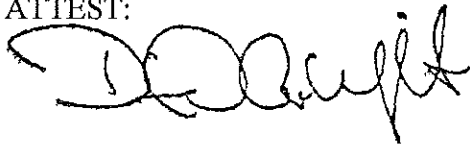
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-3-E
August 17, 2011

IN RE:

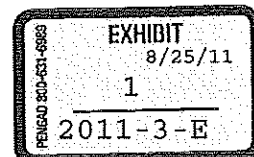
Annual Review of Base Rates for Fuel Costs)
for Duke Energy Carolinas, LLC) **SETTLEMENT AGREEMENT**

This Settlement Agreement is made by and among the South Carolina Office of Regulatory Staff ("ORS"), the South Carolina Energy Users Committee ("SCEUC"), and Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or "the Company") (collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, the above-captioned proceeding has been established by the Public Service Commission of South Carolina ("Commission") pursuant to the procedures in S.C. Code Ann. §58-27-865 (Supp. 2010), and the Parties to this Settlement Agreement are parties of record in the above-captioned docket. There are no other parties of record in the above-captioned proceeding;

WHEREAS, the Parties have engaged in discussions to determine if a settlement of the issues would be in their best interests;

WHEREAS, following those discussions the Parties have each determined that their interests and the public interest would be best served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:



1. The Parties agree to stipulate into the record before the Commission the pre-filed direct testimony and exhibits of ORS witnesses A. Randy Watts and Robert A. Lawyer, without objection or cross-examination by the Parties. The Parties also agree to stipulate into the record before the Commission the redacted public and unredacted confidential pre-filed direct testimony and exhibits of Duke Energy Carolinas witnesses ~~Sharon S. Babcock~~ and John W. Pitesa, and the pre-filed direct testimony and exhibits of ^{Sharon S. Babcock,} John J. Roebel, Marion Elliott Batson, and David C. Culp without objection or cross-examination by the Parties. The Parties agree that no other evidence will be offered in the proceeding by the Parties other than the stipulated testimony and exhibits and this Settlement Agreement. The Parties agree to present all witnesses at the scheduled hearing in this matter.

2. As a compromise to positions advanced by Duke Energy Carolinas, ORS, and SCEUC, all Parties agree to the proposal set out immediately below, and this proposal is hereby adopted, accepted, and acknowledged as the agreement of the Parties.

3. ORS analyzed the cumulative under-recovery of base fuel costs that Duke Energy Carolinas had incurred for the period June 2010 through May 2011 totaling (\$528,767). ORS added the estimated under-recovery of (\$4,490,209) for the month of June 2011, the estimated under-recovery of (\$5,771,424) for the month of July 2011, the estimated under-recovery of (\$7,076,592) for the month of August 2011, and the estimated under-recovery of (\$10,601,424) for the month of September 2011, to arrive at an estimated cumulative under-recovery of (\$28,468,416) as of September 2011. Duke Energy Carolinas' cumulative under-recovery for base fuel costs, per its testimony in this docket, as of May 2011 totals (\$1,857,000), and as of September 2011 the estimated

cumulative under-recovery totals (\$29,796,000). The difference between Duke Energy Carolinas' and ORS's cumulative under-recovery as of actual May 2011 totals \$1,328,233. The difference between Duke Energy Carolinas' and ORS's estimated cumulative under-recovery as of September 2011 totals \$1,327,584.

4. Exhibit 6 to the direct testimony of Duke Energy Carolinas witness Sharon Babcock recognizes that Duke Energy Carolinas included in its base fuel cost calculation the under-collected amount of (\$29,796,000) shown on Babcock Exhibit 5 plus an amount of \$1,255,000 that it over-collected from its SC retail customers related to the Coal Inventory Rider.

5. ORS analyzed the cumulative over-recovery of environmental costs that Duke Energy Carolinas had incurred for the period June 2010 through May 2011 totaling \$3,595,468. ORS added the estimated under-recovery of (\$111,926) for the month of June 2011, the estimated under-recovery of (\$204,129) for the month of July 2011, the estimated under-recovery of (\$203,889) for the month of August 2011 and the estimated under-recovery of (\$61,499) for the month of September 2011, to arrive at an estimated cumulative over-recovery of \$3,014,025 as of September 2011. Duke Energy Carolinas' cumulative over-recovery for environmental costs, per its testimony in this docket, as of May 2011 totals \$3,597,000, and as of September 2011 the estimated cumulative over-recovery totals \$3,016,000. The difference between Duke Energy Carolinas' and ORS's cumulative over-recovery as of actual May 2011 totals \$1,532. The difference between Duke Energy Carolinas' and ORS's estimated cumulative over-recovery, as of September 2011, totals \$1,975.

6. The Parties agree to accept all accounting adjustments as put forth in ORS witness Lawyer's pre-filed direct testimony related to the over/under-recovery on fuel and environmental costs, and acknowledge that the over-collected amount of \$1,255,000 related to the Coal Inventory Rider is reflected on Babcock Exhibit 6.

7. The appropriate fuel factors for Duke Energy Carolinas to charge for the period beginning with the first billing cycle in October 2011 extending through the last billing cycle of September 2012 are listed below. These fuel factors include environmental costs and the under-recovered fuel costs.

Class of Service	SC Base Fuel Factor (¢/kWh)	SC Environmental Factor (¢/kWh)	SC Combined Projected Fuel Factor (¢/kWh)
Residential	2.5273	0.0629	2.5902
General/Lighting	2.5273	0.0466	2.5739
Industrial	2.5273	0.0236	2.5509

8. The Parties agree that the fuel factors as set forth in Paragraph 6 above are consistent with S.C. Code Ann. §58-27-865 (Supp. 2010).

9. The Parties agree that the following two matters with respect to reagent costs are subject to true-up in the Duke Energy Carolinas 2012 fuel hearing: (1) booked cost versus actual cost and (2) booked sales and use tax versus actual sales and use tax.

10. The Parties agree that in an effort to keep the Parties and Duke Energy Carolinas' customers informed of the over/under recovery balances related to fuel costs and of Duke Energy Carolinas' commercially reasonable efforts to forecast the expected fuel factor to be set at its next annual fuel proceeding, Duke Energy Carolinas will provide to SCEUC, ORS, and where applicable, its customers the following information:

- (a) copies of the monthly fuel recovery reports currently filed with the Commission and ORS; and
- (b) forecasts of the expected fuel factor to be set at its next annual fuel proceeding based upon Duke Energy Carolinas' historical over/under recovery to date and Duke Energy Carolinas' forecast of prices for uranium, natural gas, coal, oil and other fuel required for generation of electricity. Such forecasts will be provided in the 4th quarter of the calendar year prior to the next annual fuel proceeding and in the 2nd quarter of the calendar year of the Company's next annual fuel proceeding. Duke Energy Carolinas will use commercially reasonable efforts in making these forecasts. To the extent that the forecast data required hereunder is confidential, any party or customer that wants forecasted fuel data will have to sign a non-disclosure agreement agreeing to protect the data from public disclosure and to only disclose it to employees or agents with a need to be aware of this information.

11. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of all issues currently pending in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

12. The Parties agree that any and all challenges to Duke Energy Carolinas' historical fuel costs and revenues for the period ending May 2011 are not subject to

further review; however, outages not complete as of May 31, 2011 and outages where final reports (Company, contractor or government reports or otherwise) are not available may be subject to further review in the review period the outage is complete or when the report(s) become available. Fuel costs and revenues for periods beginning June 2011 and thereafter shall be open issues in future proceedings and will continue to be tried-up against actual costs in such proceedings held under S.C. Code Ann. §58-27-865 (Supp. 2010).

13. The Parties agree this Settlement Agreement is reasonable, in the public interest, and in accordance with law and regulatory policy.

14. Further, ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code §58-4-10(B) (Supp. 2010). S.C. Code §58-4-10(B)(1) through (3) reads in part as follows:

“...‘public interest’ means a balancing of the following:

- (1) Concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) Economic development and job attraction and retention in South Carolina; and
- (3) Preservation of the financial integrity of the State’s public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.”

15. This written Settlement Agreement contains the complete agreement of the Parties. The Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission declines to approve the agreement in its entirety, then any Party desiring to

do so may withdraw from the agreement without penalty, within three (3) days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to all parties in that time period.

16. This Settlement Agreement shall be effective upon execution of the Parties and shall be interpreted according to South Carolina law.

17. This Settlement Agreement in no way constitutes a waiver or acceptance of the position of any Party concerning the requirements of S.C. Code Ann. §58-27-865 (Supp. 2010) in any future proceeding. This Settlement Agreement does not establish any precedent with respect to the issues resolved herein, and in no way precludes any Party herein from advocating an alternative methodology under S.C. Code Ann. §58-27-865 (Supp. 2010) in any future proceeding.

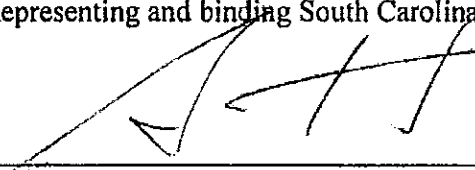
18. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

19. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the Agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any Party. This document may be signed in counterparts, with the various signature

pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

(Signature Pages Follow)

Representing and binding South Carolina Energy Users Committee:



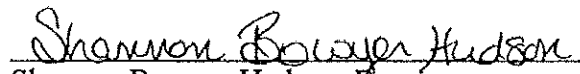
Scott Elliott, Esquire
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29205
Phone: (803) 771-0555
Fax: (803) 771-8010
Email: selliott@elliottlaw.us

Representing and binding Duke Energy Carolinas, LLC:

Brian L. Franklin NW

Brian L. Franklin, Esquire
Associate General Counsel
Duke Energy Corporation
550 S. Tryon Street
DEC45A/P.O. Box 1321
Charlotte, NC 28201
Phone: (980) 373-4465
Fax: (980) 373-8534
E-mail: Brian.Franklin@duke-energy.com

Representing and binding the South Carolina Office of Regulatory Staff:



Shannon Bowyer Hudson, Esquire
Shealy Boland Reibold, Esquire
South Carolina Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
Phone: (803) 737-0889
(803) 737-0863
Fax: (803) 737-0895
Email: shudson@regstaff.sc.gov
sreibol@regstaff.sc.gov